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09/817,072	03/26/2001	Brenda Pomerance	BRENDA 10	9825

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EXAMINER

MOONEYHAM, JANICE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/817,072

Applicant(s)

POMERANCE, BRENDA

Examiner

Jan Mooneyham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is response to the applicant's communication filed on March 26, 2001.
wherein claims 1-42 are currently pending.

Information Disclosure Statement

The IDS submitted on September 17, 2001 is being considered by the Examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-24, 35 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for Claim 1, how is the detecting lack of agreement performed? What does the term "automatically" mean? What does "without a human mediator mean?"

As for Claim 20, what does the applicant identify as "emotional detail information?" How is the information collected?

What is an exposure procedure?

Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

An example of omitted steps are as follows:

Claim 1 is a method for automated resolution of a complaint from a complainer against a party, comprising detecting lack of agreement between the complainer and the

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party and mediating between the complainer and the party. The applicant does not provide any steps which provide the Examiner any understanding as to how the lack of agreement is detected. How is the mediating performed? Do the parties provide any information prior to the mediating?

Claim 20 identifies a step of collecting emotional detail information? How is this step performed? Are the parties given paper and requested to write down their emotions?

Claims 20 and 21 involve the step of collecting information. How is the collecting performed? Does someone walk around and collect the papers?

Claim 22 states that an agreement is obtained? How is the agreement obtained? How is the compliance monitored?

What does the term "granularity" mean?

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

3. Claims 1-42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to

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promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1-42 only recite an abstract idea. The recited steps of merely detecting lack of agreement and mediating or collecting emotional detail and generating emotional state information, and comparing the complaint with rules, or collecting the complaint, generating a complaint resolution, or obtaining an agreement and monitoring compliance, or comparing the complaint with merchant rules and negotiating the one parameter, or comparing the complaint and entering an item does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper or manually.

Assuming the term "automated" in the preamble to mean a computer, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble.

Furthermore, if one even assumes that the term "automatically" or "without a human mediator" is to mean a computer, mere intended or trivial use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 10, 12, 14-19, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Sloo (US 5,895,450).

Referring to Claim 1:

Soo discloses a method for automated resolution of a complaint from a complainer against a party, comprising:

detecting lack of agreement between the complainer and the party (Fig. 3 (300) (Register Complaint), Fig. 7 (700) (settle dispute), and

automatically mediating between the complainer and the party to resolve the complaint (col. 5, lines 11-20).

Referring to Claim 3:

Sloo discloses a method wherein the relevant contextual information is based on a set of advisory rules (col. 4, lines 9-29).

Referring to Claims 10 and 13:

Sloo discloses a method wherein automatically mediating includes collecting response information and preparing a well-formed response based on the collected response information (col. 10, line 48 thru col. 11, line 5).

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Referring to Claim 12:

Sloo discloses a method wherein automatically mediating includes suggesting a Response (col. 10, line 48 thru col. 11, line 5).

Referring to Claim 14:

Sloo discloses a method further comprising automatically monitoring compliance by at least one of the complainer and the party with terms of an agreement resolving the complaint ((col. 11, lines 38-43 Monitor Compliance).

Referring to Claims 15 and 23:

Sloo discloses a method wherein automatically monitoring compliance includes receiving compliance information from at least one of the complainer and the party (col. 6, lines 24-32 and col. 11, lines 37-62).

Referring to Claims 16 and 24:

Sloo discloses a method wherein automatically monitoring compliance includes receiving compliance information from an external source (col. 11-38-43).

Referring to Claim 17:

Sloo discloses a method further comprising automatically preparing a summary of processing of the complaint (col. 1, line 63 thru col. 2, line 6).

Referring to Claim 18:

Sloo discloses a method wherein the summary is anonymized (col. 1, lines 53-62, col. 6, lines 43-46).

Referring to Claim 19:

Sloo discloses a method wherein the summary has at least two levels of

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information granularity (col. 2, lines 61-65 – provides public access to *portions* of data records) .

Referring to Claim 22:

Sloo discloses a method for automated resolution of a complaint from a complainer against a party, comprising:

obtaining an agreement resolving the complaint (col. 1, line 53 thru col. 2, line 20), and

automatically monitoring compliance by at least one of the complainer and the party with terms of the agreement (col. 1, line 53 thru col. 2, lines 20, col. 11, lines 38-43 Monitor compliance).

5. Claims 20-21, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Tavor et al (US 6,553,347) (hereinafter referred to as Tavor).

Referring to Claim 20:

Tavor discloses a method for automated resolution of a complaint from a complainer against a party, comprising:

automatically collecting emotional detail information (col. 17, lines 16-46),

automatically generating emotional state information for the complaint from the emotional detail information (col. 2, lines 48-50, col. 17, lines 46-47), and

automatically comparing the complaint with rules previously supplied by the party to detect whether there is a match between a solution desired by the complainer and solutions that the party agrees to (col. 2, lines 31-41).

Referring to Claim 21:

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Tavor discloses a method for automated resolution of a complaint from a complainer against a party, comprising:

automatically collecting the complaint from the complainer (col. 4, lines 20-48), and

when the complaint's desired solution does not match acceptable solutions specified in rules of the party, automatically generating a complaint resolution offer on behalf of the party based on the acceptable solutions specified in the rules of the party (col. 2, lines 11-14 and 21-29, col. 4, lines 20-48 and col. 13, lines 65-67).

Referring to Claim 25:

Tavor discloses a method for managing a complaint, comprising:
automatically comparing the complaint with merchant rules (commercial negotiations) to obtain a proposed remedy having at least one parameter (col. 2, lines 31-41 (price)), and

automatically negotiating the at least one parameter of the proposed remedy to improve consumer satisfaction (col. 2, lines 31-41, (system may offer presents or benefits).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 2, 5-6, 26-29 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo and Tavor as applied to claims 1, 25, and 37 above, and further in view of Collins et al (2002/0007362) (hereinafter referred to as Collins).

Referring to Claim 2:

Sloo does not disclose a method further comprising presenting relevant contextual information to the complainer during preparation of the complaint.

However, Collins discloses a method further comprising presenting relevant contextual information to the complainer during preparation of the complaint (page 3 [00037 template for entry of information or the selection of one or more listed choices] and page 4 [0046]).

It would have been obvious to one of ordinary skill in the art to incorporate into the disclosure of Sloo the teaching of Collins so that the parties can define the issues to be resolved by using the templates which, based on the issues selected by the parties, the server process selects narrower issues and more defined issues, thus leading toward narrowing the scope of the issue thus making for a more successful and timely resolution.

Referring to Claim 5.

Collins further discloses a method further comprising automatically determining what information is needed to detect lack of agreement based on information previously supplied by the party and automatically collecting the needed information (page 3 [0042}, page 4 [0046]).

Referring to Claim 6:

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Collins discloses a method wherein the previously supplied information includes values for parameters relating to the complainer or a subject of the complaint (page 3 [0042]).

Referring to Claim 26:

Collins discloses a method wherein negotiating includes improving one of the parameters of the remedy in response to an indication from a consumer that consumer satisfaction might be improved by improving the parameter (page 6 {0052}- Inter-issue bargaining involves a first party making concessions on a first issue in exchange for the second party making concessions on a second issue).

Referring to Claim 27:

A method further comprising additionally improving the improved parameter in response to a promise of satisfaction from the consumer (col. 6 [0052} Inter-issue bargaining involves a first party making concessions on a first issue in exchange for the second party making concessions on a second issue could encompass a promise of satisfaction, also, see page 6 [0051]- ZOPA components could include Written Apology, etc – parties can suggest refinements).

Referring to Claims 28 and 39:

Collins discloses a method further comprising automatically soliciting an explanation from the consumer as to why the consumer deserves parameter improvement beyond a predetermined value (pages 5-6 {0051}- first party legitimizes the offered resolution by giving reasons supporting the offered resolution.)

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Referring to Claim 29:

Collins discloses a method wherein negotiation includes automatically soliciting an explanation from the consumer as to why the consumer deserves parameter improvement beyond a predetermined value. (pages 5-6 {0051]- first party legitimizes the offered resolution by giving reasons supporting the offered resolution.)

7. Claims 4, 7-9, 11, 30-32 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo as applied to claim1 above, and further in view of Tavor et al (6,553,347) (hereinafter referred to Tavor).

Referring to Claim 4:

Sloo does not disclose collecting emotional detail information and generating emotional stat information form the complaint.

However, Tavor discloses automatically collecting emotional detail information, and automatically generating emotional state information for the complaint from the emotional detail information (col. 5, lines 59-63, col. 16, lines 48-51, col. 17, lines 16-45)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the disclosure of Sloo the teachings of Tavor since common sense dictates that for successful dispute resolution the parties should have a positive opinion or feeling about the outcome and knowing whether the mood is rising or failing the parties will know whether to continue in the trend of the negotiation or to alter the trend.

Referring to Claim 7:

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Tavor discloses a method wherein detecting lack of agreement includes comparing the complaint with rules of the party (col. 2, lines 31-41).

Referring to Claim 9:

Tavor discloses a method wherein generating the party's answer to the complaint occurs when the complaint's desired solution does not match acceptable solutions specified in the rules of the party (col. 4, lines 20-48).

Referring to Claim 11:

Tavor discloses a method wherein the response information includes emotional detail information and the well formed response includes emotional state information (col. 5, lines 59-63).

Referring to Claim 30 and 31:

The Examiner takes Official Notice that it is old and well known and also a common business practice to submit an item to a resale market and to entering an item specified in the complaint to a refund competition.

It would have been obvious to one of ordinary skill in the art to incorporate resale and refund competition into a dispute method because often when products are returned unused it is common practice to try to offer a refund and to try to re-sale the products, sometimes at a lower price. Examples of this are the brick and mortar outlets for e-commerce catalogs such as Plow and Hearth and LL Bean.

Referring to Claim 32:

Collins discloses a method further comprising automatically receiving a description of circumstances justifying a refund of the price of the item specified in the

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complaint (page 5-6 [0051] first party legitimizes the offered resolution by giving reasons supporting the offered resolution)

Referring to Claim 40:

Sloo discloses a method wherein the summary is anonymized (col. 1, lines 53-62, col. 6, lines 43-46).

8. Claims 33-36, 38, and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavor as applied to claim 25 above, and further in view of Sloo.

Referring to Claim 33:

Tavor does not disclose anonymizing a description of circumstances.

However, Sloo discloses a method further comprising automatically anonymizing the description of circumstances.

It would have been obvious to one of ordinary skill in the art to incorporate into the disclosure of Tavor the teachings of Sloo since this would encourage users to file complaints with the apparatus when a dispute arises.

Referring to Claim 32:

Sloo discloses a method further comprising automatically receiving a voting or ranking for a set of descriptions provided by other consumers (col. 2, lines 7-15 – rate the conduct and performance, col. 8, lines 54-58).

Referring to Claim 35:

Sloo discloses a method further comprising automatically selecting the set of

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descriptions according to an exposure procedure (the Examiner is reading this broadly to be the procedure by which a comparison is made of competing cases (col. 8, line 50 thru col. 9, line 10, col. 9, line 39-49, col. 10, lines 13-22, col. 13, lines 18-24).

Referring to Claims 36 and 38:

Sloo discloses a method further comprising automatically preparing an anonymized case summary of how the complaint was processed (col. 1, line 53 thru col. 2, lines 6).

Referring to Claim 41:

Sloo discloses a method further comprising automatically receiving a voting or ranking for a set of descriptions provided by other consumers (col. 2, lines 7-20).

Referring to Claim 42:

Sloo discloses a method further comprising automatically selecting the set of descriptions according to an exposure procedure (col. 13, lines 18-24).

9. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tavor.

Referring to Claim 37:

Tavor discloses a method for managing a complaint, comprising:
automatically comparing the complaint with merchant rules to obtain a proposed remedy having at least one parameter (col. 2, lines 31-41, col. 4, lines 21-48, abstract).

Tavor does not disclose automatically entering an item specified in the complaint to a refund competition when the proposed remedy is not satisfactory.

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However, it would have been obvious to one of ordinary skill in the art to incorporate into Tavor automatically entering an item specified in the complaint to a refund competition when the proposed remedy is not satisfactory as a merchant rule since the system is programmed to offer the user several presents or benefits in order to secure the sale and refunds are common business practices when an item is returned.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Burchetta discloses a computerized dispute resolution system and method for communicating and processing a series of demands.

Unisys discloses a total dispute management solution using NeuralTech's unique expert system which codifies Visa/MasterCard rules governing dispute resolution.

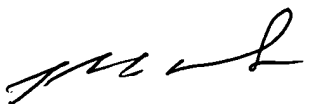
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM



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